G. INCOME EXCLUSIONS AND DISREGARDS

WAC 388-513-1340 Determining excluded income for long-term care (LTC).
This section describes income the department excludes when determining a client's eligibility and participation in the cost of care for LTC services with the exception described in subsections (30) and (33).

(1) Crime victim's compensation;

(2) Earned income tax credit (EITC);

(3) Native American benefits excluded by federal statute (refer to WAC 388-450-0040;

(4) Tax rebates or special payments excluded by other statutes;

(5) Any public agency's refund of taxes paid on real property and/or on food;

(6) Supplemental Security Income (SSI) and certain state public assistance based on financial need;

(7) The amount a representative payee charges to provide services when the services are a requirement for the client to receive the income;

(8) The amount of expenses necessary for a client to receive compensation, e.g., legal fees necessary to obtain settlement funds;

(9) Any portion of a grant, scholarship, or fellowship used to pay tuition, fees, and/or other necessary educational expenses at any educational institution;

(10) Child support payments received from an absent parent for a minor child who is not institutionalized;

(11) The amount of expenses related to impairments of a permanently and totally disabled client that allow the client to work;

(12) The amount of expenses related to blindness that allow the client to work;

(13) Self-employment income allowed as a deduction by the Internal Revenue Service (IRS);

(14) Payments to prevent fuel cut-offs and to promote energy efficiency excluded by federal statute;

(15) Assistance (other than wages or salary) received under the Older Americans Act;

(16) Assistance (other than wages or salary) received under the foster grandparent program;

(17) Certain cash payments a client receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services;

(18) Interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement that are left to accumulate and become part of the separately identified burial funds set aside;

(19) Tax exempt payments received by Alaska natives under the Alaska Native Settlement Act established by P.L. 100-241;

(20) Compensation provided to volunteers in ACTION programs under the Domestic Volunteer Service Act of 1973 established by P.L. 93-113;

(21) Payments made from the Agent Orange Settlement Fund or any other funds to settle Agent Orange liability claims established by P.L. 101-201;

(22) Payments made under section six of the Radiation Exposure Compensation Act established by P.L. 101-426;

(23) Restitution payment, and interest earned on such payment to a civilian of Japanese or Aleut ancestry established by P.L. 100-383;

(24) Payments made under sections 500 through 506 of the Austrian General Social Insurance Act;

(25) Payments from *Susan Walker v. Bayer Corporation, et. al.,* 95-C-5024 (N.D. Ill.) (May 8, 1997) settlement funds;

(26) Payments made from the Ricky Ray Hemophilia Relief Fund Act of 1998 established P.L. 105-369;

(27) Payments made under the Disaster Relief and Emergency Assistance Act established by P.L. 100-387;

(28) Payments made under the Netherlands' Act on Benefits for Victims of Persecution (WUV);

(29) Payments made to certain survivors of the Holocaust under the Federal Republic of Germany's Law for Compensation of National Socialist Persecution or German Restitution Act;

(30) Interest earned from payments described in subsections (24) through (29) is considered available and counted as nonexcluded income;

(31) Income received by ineligible or nonapplying spouse from a governmental agency for services provided to an eligible client, e.g., chore services;

(32) Department of Veterans Affairs benefits designated for:

  (a) The veteran's dependent;

  (b) Unusual medical expenses, aid and attendance allowance, and housebound allowance, with the exception described in subsection (33);

(33) Benefits described in subsection (32) (b) for a client who resides in a state veterans' home and has no dependents are excluded when determining eligibility, but are considered available when determining participation in the cost of care.

WAC 388-513-1345 Determining disregarded income for institutional or hospice services under the medically needy (MN) program. This section describes income the department disregards when determining a client's eligibility for institutional or hospice services under the MN program. The department considers disregarded available when determining a client's participation in the cost of care.

(1) The department disregards the following income amounts in the following order:

  (a) Income that is not reasonably anticipated, or is received infrequently or irregularly, when such income does not exceed:

(i) Twenty dollars per month if unearned; or

(ii) Ten dollars per month if earned.

(b) The first twenty dollars per month of earned or unearned income, unless the income paid to a client is:

(i) Based on need; and

(ii) Totally or partially funded by the federal government or a private agency;

(2) For a client who is related to the Supplemental Security Income (SSI) program as described in WAC 388-503-0510 (1), the first sixty-five dollars per month of earned income not excluded under WAC 388-513-1340, plus one-half of the remainder.

(3) For a TANF/SFA-related client, fifty percent of gross earned income.

(4) Department of Veterans Affairs benefits, if:

(a) Those benefits are designated for:

(i) Unusual medical expenses;

(ii) Aid and attendance allowance; or

(iii) Housebound allowance; and

(b) The client:

(i) Resides in a state veterans' home; and

(ii) Has no dependents.

(6) Income the Social Security Administration withholds from SSA Title II benefits for the recovery of an SSI overpayment.

CLARIFYING INFORMATION

Income that is counted

Income that remains after exclusions and disregards provided by specific program rules must be counted when determining eligibility and participation in the cost of care for long-term care (LTC) services. Such income is considered "countable" income.

Income described in WAC 388-513-1340 is excluded when determining both eligibility and participation in the cost of care. These exclusions apply to both the categorically needy (CN) and medically needy (MN) programs. Specific federal statutes provide that each type of income listed be excluded when determining a client's countable income.

Income described in WAC 388-513-1345 is disregarded when determining eligibility for MN programs. Disregarded income must be counted when determining eligibility for CN programs and when determining a client's participation in the cost of care. Refer to WAC 388-515-1510 for earned income deductions provided under the CAP/OBRA waiver.

WORKER RESPONSIBILITIES

Follow these steps when determining eligibility.

1. See **ELIGIBILITY REQUIREMENTS** when determining eligibility for LTC services.

2. Determine the amount of a client's income that is counted for CN and MN programs by deducting income exclusions described in WAC 388-513-1340 from available income. Refer to WAC 388-513-1325 and WAC 388-513-1330 to establish what income is considered available for LTC services before taking these deductions.

3. Determine income that is counted for MN programs by deducting income disregards described in WAC 388-513-1345.

4. For work expenses described in WAC 388-513-1340 (11) and (12), exclude reasonable work expenses that are paid by a blind or disabled person which enable the client to work. Limit such expenses to those paid in a month in which the client is working or working toward employment.

5. Refer to **EXCLUDED RESOURCES** to determine which types of income become excluded resources. Establish a "tickler" to review resources periodically when excluded income amounts are high and become available resources on the first of the following month.

6. See **PARTICIPATION** to determine participation in the cost of care.

7. Follow necessary supplemental accommodation (NSA) procedures described in chapter 388-200 WAC when appropriate.

ACES PROCEDURES

1. Refer to Chapter K 20.16.4 in the ACES User Manual. When following those procedures, the information below is important to remember.

2. Enter the correct source code on the UNER screen for different income types. Use the Social Security source code that corresponds to the client's claim number suffix or BIC. F1 help shows the correct code to use for each BIC. If the wrong source code is used, then the interface with Bendex causes ACES to count the income twice.

3. Enter the income of the institutionalized spouse (IS) and the community spouse (CS) on the LTCD screen. Since Bendex does not interface with the Social Security amounts entered on the LTCD screen for the CS, enter COLAs and other income changes related to the CS manually.

4. When both spouses are receiving LTC services, update UNER and LTCD screens for both spouses. This allows ACES to correctly compute one-half of the community income for participation purposes.